

# Memorandum

**Date:** May 3, 2001  
**Telephone:** (916) 653-1614  
**File:** RESPONSE.Doc

**To :** WILLIAM J. KEESE, Chairman and Presiding Member  
ROBERT LAURIE, Commissioner and Associate Member

**From :** **California Energy Commission** - Richard K. Buell  
1516 Ninth Street Siting Project Manager  
Sacramento, CA 95814-5512

**Subject :** **Three Mountain Power Project (99-AFC-2) - Staff Responses to Applicant's Comments on the PMPD**

During the hearing on April 26, 2001 to accept comments on the Presiding Member's Proposed Decision (PMPD) for the Three Mountain Power Project (99-AFC-2) the hearing officer directed staff to provide additional information regarding comments provide by the applicant in three topic areas. The following is staff response to that request.

## **ALTERNATIVES**

The applicant correctly points out in its comments that section 15252 of the CEQA Guidelines (Cal. Code Regs., tit. 14, section 15252) addresses the contents of the environmental assessment document prepared under a Certified Regulatory Program, such as the Energy Commission's power plant siting program. However, in discussing that section, the applicant implies that the substitute document need only address alternatives, if it cannot or does not find that the project will not have any significant environmental effects. In fact, section 15252(b) explicitly states that the document must contain a discussion of both alternatives and mitigation measures, if such a statement cannot be made. While staff supports including a reference to section 15252 in the PMPD, we urge the Committee to use language that recognizes the Energy Commission's obligation to evaluate both mitigation measures and alternatives to the project.

## **AIR QUALITY**

The applicant provided 18 comments on the PMPD on the subject of Air Quality. Staff reviewed the comments, and believes that comments 1, 4, 5, 6, 7, 9,10, 12,13, 15, 17 and 18 are appropriate. Staff agrees to these suggested changes to the PMPD provided by the applicant. With respect to other comments, staff does not agree with the applicant and has provided explanations of its concerns below.

Attached is an email staff received from Michael Kussow of the Shasta County Air Quality Management District (the District). Staff agrees with the District's response to applicant's comments #1 and #5 (District's response #1 and #2), and we believe District's response #3 supports staff's response to the applicant's comments #8.<sup>1</sup> Staff responses to the applicant's comments are following:

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<sup>1</sup> Please note that the numbering used in the District's comments does not correspond to the numbering of

Comment #2: The applicant suggests that an analysis of the construction impacts was performed for NO<sub>x</sub>; therefore, references to the impacts should be labeled as NO<sub>x</sub>. Staff does not agree. The analysis of project construction impacts was performed for NO<sub>2</sub>, not NO<sub>x</sub>, and the reference for NO<sub>2</sub> in the text is correct.

Comment # 3: The applicant believes that the criteria air contaminants emitted during the commission period should not be counted toward the annual emission limits. In the Final Staff Assessment (FSA), staff has recommended that "...as an incentive for the applicant to limit the emissions during commissioning...", the emissions from this period be counted toward the annual emission limits. This recommendation is reflected in condition AQ-42. In addition, this practice is consistent with other projects recently licensed (Los Medanos and Delta) or being reviewed by the Commission (Contra Costa Unit 8 and Potrero Unit 7).

Comment # 8: The applicant comments that the turbine NO<sub>x</sub> concentration of 2 parts per million (ppm) measured over a 3-hour average will have the same emissions as if the turbine would emit 2.5 ppm measured over one-hour average. Therefore, the applicant suggests wording change to the PMPD to reflect that the SCONO<sub>x</sub> offers "no control improvement in NO<sub>x</sub> emissions over SCR". Although the two concentrations were deemed by the regulatory agencies as equivalent for the purpose of determination of Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER), it is unclear whether these two emissions standards in fact result in the same level of emissions. Absent evidence of such actual equivalence, staff believes the PMPD should remain unchanged on this point.

Comment # 11: The applicant states that the PMPD should be consistent with the FDOC which limits the speed of vehicles on unpaved roads or areas to 15 mph, rather than the 10 mph specified in PMPD. Staff has determined that the project's PM<sub>10</sub> emissions construction impacts are significant and recommend that the vehicle speed limit not exceeding 10 mph on unpaved roads or unpaved areas as one component of a feasible control mitigation. We note that at the hearing on April 26, 2001, the applicant agreed to the 10 mph speed limit.

Comment # 14: The applicant suggests that testing requirement in Condition AQ-48 for NO<sub>2</sub> be replaced with NO<sub>x</sub>. It is common practice to convert to NO<sub>x</sub> emissions to NO<sub>2</sub> emissions and report these in emission reports. To clarify this staff suggests that wording reference to NO<sub>2</sub> in Condition AQ-48 be replaced as "NO<sub>x</sub> (reported as NO<sub>2</sub>)".

Comment #16: The intent of AQ-52 is that a source test for acrolein emissions be performed in the future using whatever method is approved by the CARB Monitoring and Laboratory Division. Staff became aware this year that CARB believes that current testing methods for acrolein stack emissions are unreliable. The discussion of this issue is ongoing, and presumably will eventually result in a recommended method (or methods) for performing acrolein source tests. Once such a method is agreed upon, it will be very useful to have comparable source test information from the power plants licensed by the Commission. Such comparable data can be used to compare acrolein emissions from projects with CO oxidation catalysts (such as Three Mountain) with similar emissions from projects not

employing such catalysts (such as Delta Energy Center). Such comparison will be useful in determining the effectiveness of the CO catalyst in reducing acrolein and other toxic air contaminant emissions. Accordingly, Staff recommends that the note in AQ-52 be modified to read as follows: "Note: Source testing for acrolein should occur only after the CARB Monitoring and Laboratory Division has provided a written recommendation for the method to be used for such testing. If there is no written recommendation at the time of the initial compliance test, the acrolein source test should be delayed until such recommendation is made."

## **SOILS & WATER RESOURCES**

Staff discussed its comments on PMPD page 240 with the applicant, and the parties agreed that the changes proposed by staff are acceptable.

## **NOISE**

Comment #2: The applicant's characterization that staff recommended two alternative approaches for the applicant to reduce impacts to less than significant in its Noise Supplemental Testimony is correct. (Ex 67, Supplemental Testimony of Steve Baker, p. 4-5)

Comment #2a: The applicant is correct that the staff did not state "the resulting increase of 6 dBA 'may or may not' be a potentially significant." However, staff believes that the text of the PMPD correctly captures intent of the way in which staff uses the 5 dBA increase criterion.<sup>2</sup> That is, staff uses the criteria as point to determine whether further analysis is required. The applicant is also correct that staff's testimony was that "[t]his [6 dBA increase] does not appear to present a significant adverse impact, in light of the fact that the noise regime is heavily influenced by traffic noise." (Ex. 67, Supplement Testimony of Steve Baker, p. 3)

Comment #2b: We do not understand the comment presented by the applicant. The L<sub>90</sub> noise level is, by accepted definition, the background noise level. The definitive noise monitoring (the 37-hour monitoring performed by Brown-Buntin Associates on December 3-5, 2000) reveals a nighttime average background (L<sub>90</sub>) noise level of 43 dBA. We believe the PMPD on page 342 correctly states staff's findings regarding background noise levels, we do not understand the relevance of the applicant's estimated background noise level of 46.2 dBA "without nighttime hours".

Comment #2c: The applicant is correct in saying that staff did recommend two alternative approaches to mitigate the project's impacts to less than significant. Staff notes that although its testimony provided the alternative language for condition NOISE-4 (now

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<sup>2</sup> Staff believes the Committee could take notice of staff's witness response to questions posed by Mr. Bob Murray on December 18, 2000 (12/17 RT 78 through 80) to clarify this point. "...you know, the 3 to 10 is an area where you have to analyze it. In order to guide our analysis we pick a number in between. We say 5 db. That's where we become critical. If the increase in noise is going to be less than 5 db, then we consider it's probably not a significant impact. If it's going to be 5 or greater, then we look at it closely."

numbered NOISE-5 in the PMPD), it did not provide the language requiring the mitigation at the Hathaway Residence (required by NOISE-2). This may be the cause for confusion in the conditions proposed in the PMPD. Staff agrees with the applicant that if the Committee is to be consistent with staff's testimony and the Committee is to require compliance with condition NOISE-2, then the noise level in condition NOISE-5 should be 50 dBA not 48 dBA. However, staff recognizes that the Committee may intend to take a more precautionous approach than that offered in staff recommendations. In light of the expressed sensitivity of local residents to potential noise emissions from the project and the subjective nature of noise impacts and staff's criterion, staff would not oppose the more precautionous approach. However, if that is the case, the Committee should clearly state its conclusion and indicate the reasoning for its conclusions, including its consideration of the potential costs<sup>3</sup> of additional noise mitigation required to meet 48 dBA.

Comment #2d: Applicant is correct, but please refer to comment #2c above.

Comment #2e: We are confused by the applicant's comment. Deleting NOISE-2 and changing NOISE-5 to reflect 50 dBA, as suggested here by the applicant, would not provide minimum protection. Staff opposes this proposed change.

RKB:rkb

cc: Three Mountain POS (99-AFC-2)  
Cynthia Praul

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<sup>3</sup> Staff notes that there is no specific testimony in the record identifying the cost of going from 50 dBA to 48 dBA. Staff's witness's response to questions raised by Mr. Bob Murray imply that the costs could be significant. (12/18 RT 74-75)

**From:** "Kussow Michael" <mkussow@co.shasta.ca.us>  
**To:** <cpraul@energy.state.ca.us>  
**Date:** 5/1/01 10:09AM  
**Subject:** Re: Fwd: Electronic Filing of Initial Comments of Three Mountain Power, LLC on Presiding Member's PMPD

I have reviewed TMP's initial comments on the proposed decision and have the following input to provide for you when considering the air quality items:

- 1) The suggested language the applicant offers for Page 102 should be modified to read "TMPP is subject to the Shasta County AQMD NSR requirements ....", since Shasta County is an attainment area for the federal standards and the only New Source Review (NSR) requirements that apply are found within District Rule 2:1.
- 2) I agree with the applicant's suggestions regarding revising the second line of Page 124 except that I believe Footnote 31 should be eliminated in its entirety. The reference to LAER being required for non-attainment pollutants is applicable for federal non-attainment areas, which does not apply to Shasta County at this time. While the determination of BACT must examine LAER decisions in the top down analysis, adding this as part of the discussion only confuses things. It should be sufficient to cite what the BACT definition for the District is.
- 3) The District agrees with the applicant's reasoning for Page 128. EPA concluded that 2.5 ppm NOx over 1-hour averaging was equivalent to 2.0 ppm over 3-hour averaging. The 3-hour averaging period may even allow concentrations which would not meet the 2.5 ppm standard over 1-hour, so on a short term hourly basis one cannot assume a 0.5 ppm improvement with the 3-hour standard.
- 4) I have no problem with the other comments offered by the applicant.

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